



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-985]

#### **Xanthan Gum from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2016-2017**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is amending the final results of the administrative review of the antidumping duty order on xanthan gum from the People's Republic of China (China) covering the period, July 1, 2016, through June 30, 2017, to include results with respect to Neimenggu Fufeng Biotechnologies Co., Ltd. (a.k.a. Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./Xinjiang Fufeng Biotechnologies Co., Ltd. (collectively, Fufeng).

**DATES:** Applicable [Insert the date of the publication of the *Federal Register*].

**FOR FURTHER INFORMATION CONTACT:** Thomas Hanna, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0835.

#### **SUPPLEMENTARY INFORMATION:**

##### Background

Commerce published the *Preliminary Results* of this review on August 14, 2018.<sup>1</sup> On

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<sup>1</sup> See *Xanthan Gum from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review, and Preliminary Determination of No Shipments; 2016-2017*, 83 FR 40229 (August 14, 2018) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

September 21, 2018, Fufeng,<sup>2</sup> a mandatory respondent, and Tate and Lyle, a U.S. importer, filed case briefs.<sup>3</sup> No other interested parties filed comments on the *Preliminary Results* of review.

Pursuant to a series of remand orders and the Court of International Trade (CIT)'s final judgment regarding the underlying less-than-fair-value (LTFV) investigation, Commerce amended its final determination and prior amended final determination and *Order* and excluded merchandise produced and exported by Fufeng from the *Order*.<sup>4</sup> Accordingly, on December 19, 2018, Commerce published the *Final Results* of this review, in which it discontinued the review of Fufeng during the pendency of the appeals process.<sup>5</sup>

On February 10, 2020, the Court of Appeals for the Federal Circuit (CAFC) reversed the CIT's decision that resulted in the exclusion of Fufeng from the *Order*.<sup>6</sup> Accordingly, Commerce issued a third amended final determination in the LTFV investigation of xanthan gum from China, in which it found Fufeng subject to the *Order* and announced its intention to resume the instant review of Fufeng.<sup>7</sup> Commerce is now amending its final results of this administrative review by completing the administrative review with respect to Fufeng.

### Scope of the Order

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<sup>2</sup> Fufeng refers to the collapsed entity Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.) and Shandong Fufeng Fermentation, Co., Ltd. (collectively, Fufeng).

<sup>3</sup> See Fufeng's Letter, "Fufeng Case Brief in the Fourth Administrative Review of Antidumping Duty Order on Xanthan Gum from the People's Republic of China (A-570-985)," dated September 20, 2018; see also Tate and Lyle's Letter, "Xanthan Gum from China – Tate and Lyle Case Brief," dated September 20, 2018.

<sup>4</sup> See *Xanthan Gum from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 78 FR 43143 (July 19, 2013) (*Order*); see also *CP Kelco US, Inc. v. United States*, Ct. No. 13-00288, Slip Op. 15-27 (CIT March 31, 2015); *CP Kelco US, Inc. v. United States*, Ct. No. 13-00288, Slip Op. 16-36 (CIT April 8, 2016); *CP Kelco US, Inc. v. United States*, 211 F. Supp. 3d 1338 (CIT 2017); *CP Kelco US, Inc. v. United States*, Ct. No. 13-00288, Slip Op. 18-36 (CIT April 5, 2018); *CP Kelco US, Inc. v. United States*, Ct. No. 13-00288, Slip Op. 18-120 (CIT September 17, 2018); and *Xanthan Gum From the People's Republic of China: Notice of Court Decision Not in Harmony With Amended Final Determination in Less Than Fair Value Investigation; Notice of Amended Final Determination Pursuant to Court Decision; Notice of Revocation of Antidumping Duty Order in Part; and Discontinuation of Fourth and Fifth Antidumping Duty Administrative Reviews in Part*, 83 FR 52205 (October 16, 2018).

<sup>5</sup> See *Xanthan Gum from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; Final Determination of No Shipments, Partial Discontinuation of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 65143 (December 19, 2018) (*Final Results*), and accompanying Issues and Decision Memorandum.

<sup>6</sup> See *CP Kelco US, Inc. v. United States, Neimenggu Fufeng Biotechnologies Co., Ltd., Shandong Fufeng Fermentation Co., Ltd.*, 949 F.3d 1348 (Fed. Cir. 2020).

<sup>7</sup> See *Xanthan Gum from the People's Republic of China: Notice of Third Amended Final Determination Pursuant to Court Decision*, 85 FR 40967 (July 8, 2020).

The scope of the *Order* covers dry xanthan gum, whether or not coated or blended with other products. Further, xanthan gum is included in the *Order* regardless of physical form, including, but not limited to, solutions, slurries, dry powders of any particle size, or unground fiber. Merchandise covered by the scope of the *Order* is classified in the Harmonized Tariff Schedule of the United States at subheading 3913.90.20. Although this tariff classification is provided for convenience and customs purposes, the written description of the scope remains dispositive.<sup>8</sup>

#### Analysis of Comments Received

All issues raised in Fufeng's case brief are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. We have included a list of sections in the Issues and Decision Memorandum in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/inidex.html>.

#### Changes Since the Preliminary Results

We corrected certain ministerial errors and made other changes to our preliminary dumping margin calculations.

#### Amended Final Results of Review

We are assigning the following calculated weighted-average dumping margin to the firm listed below for the period July 1, 2016, through June 30, 2017:

<b>Producer or Exporter</b>	<b>Weighted-Average Dumping Margin (percent)</b>
Neimenggu Fufeng Biotechnologies Co., Ltd. (a.k.a. Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng	0.00

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<sup>8</sup> For the full text of the scope of the *Order*, see the accompanying Issues and Decision Memorandum.

## Disclosure

Commerce intends to disclose to the parties to the proceeding the calculations that it performed for these amended final results of review within five days of the date of publication of this notice in the *Federal Register*, in accordance with 19 CFR 351.224(b).

## Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), we intend to instruct U.S. Customs and Border Protection (CBP) to liquidate POR entries of subject merchandise from Fufeng without regard to antidumping duties. For entries that were not reported in the U.S. sales database submitted by Fufeng, but that were entered under Fufeng's case number (*i.e.*, at Fufeng's cash deposit rate), Commerce will instruct CBP to liquidate such entries at the China-wide rate (*i.e.*, 154.07 percent).

Consistent with its recent notice,<sup>9</sup> Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these amended final results of this review in the *Federal Register*. If a timely summons is filed at the CIT, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

## Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these amended final results of this review, as provided for by section 751(a)(2)(C) of the Act: (1) for Fufeng, the cash deposit rate will be the weighted-average dumping margin percentage that is listed in the table above; (2) for previously investigated or reviewed China and non-China exporters not listed in the table above that have a separate rate, the cash deposit rate

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<sup>9</sup> See *Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings*, 86 FR 3995 (January 15, 2021).

will continue to be the existing exporter-specific rate published for the most recent period; (3) for all China exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate previously established for the China-wide entity, which is 154.07 percent; and (4) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the China exporter that supplied that non-China exporter. The cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers Regarding the Reimbursement of Duties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

#### Notification Regarding Administrative Protective Orders (APOs)

This notice also serves as a reminder to parties subject to APOs of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this notice of amended final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Dated: May 10, 2021.

Christian Marsh,  
Acting Assistant Secretary for Enforcement and Compliance.

## **Appendix**

### **List of Sections in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the Preliminary Results of Review
- V. Discussion of the Issues
  - Comment 1: Ministerial Errors in the Margin Calculation
  - Comment 2: Ministerial Errors in the Liquidation Instructions
  - Comment 3: Surrogate Value for Sodium Hypochlorite
  - Comment 4: Value Added Tax Deduction
- VI. Recommendation

[FR Doc. 2021-10437 Filed: 5/17/2021 8:45 am; Publication Date: 5/18/2021]